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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte KRISHNASWAMY VENKATESH PRASAD
and BRYAN GOODMAN

Appeal 2009-005728
Application 10/707,671
Technology Center 2600

Before MAHSHID D. SAADAT, CARL W. WHITEHEAD, JR.,
and BRADLEY W. BAUMEISTER, *Administrative Patent Judges*.

SAADAT, *Administrative Patent Judge*.

DECISION ON APPEAL¹

¹ The two month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304 or for filing a request for rehearing as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

Appellants appeal under 35 U.S.C. § 134(a) from a Final Rejection of claims 36-70, which constitute all the claims pending in this application. Claims 1-35 have been cancelled. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

STATEMENT OF THE CASE

Appellants' invention relates to a vehicle control system that responds to both voice commands and to a vehicle occupant interacting with a human control interface. The vehicle control system comprises one or more vehicle components that adjust secondary vehicle functions, a dialog-based speech recognition component that responds to voice commands from a vehicle occupant, and a human machine interface that also communicates with the vehicle components. (Spec. ¶ [0009].) Secondary vehicle functions are those which are not directly involved with control of a vehicle's movement (e.g., acceleration, braking, turning, and the like). Examples of secondary vehicle functions include components of the entertainment system (i.e., radio, CD player), the communications system (i.e., cell phone), vehicle climate system (i.e., air conditioning), navigation system (i.e., GPS Satellite Navigation System), and the like. (Spec. ¶ [0020].) Claim 36, which is illustrative of the invention, reads as follows:

36. A vehicle control system comprising:
one or more vehicle components for adjusting secondary vehicle functions;
a module for grouping parameters together for each secondary vehicle function to form a vehicle control mode, the vehicle control mode being selectable by a vehicle occupant such that the vehicle occupant is capable of specifying

parameters for a selected vehicle control mode, wherein the vehicle control mode comprises a communication mode in which the vehicle occupant specifies parameters related to a telephone located in a vehicle passenger compartment;

a dialog-based speech recognition component adapted to respond to voice commands from the vehicle occupant, the speech recognition component is further adapted to enter into the communications mode and to communicate with the one or more vehicle components associated with each vehicle control mode, wherein the speech recognition component comprises:

a first translating component adapted to translate a voice command from a vehicle occupant into a form which communicates a control signal to the one or more vehicle components and specifies which vehicle control mode to enter into;

a prompting component adapted to prompt the vehicle occupant in audio to input information for entering into the communications mode if additional information is needed than the information contained in the voice command, to input information for specifying a particular vehicle parameter for the communications mode if additional information is needed than the information contained in the voice command and to input information to disambiguate between a plurality of matching data by prompting the vehicle occupant to select a particular set of data from the matching data while in the communications mode;

a second translating component adapted to translate the information received from the vehicle occupant in response to the prompting component prompting the vehicle occupant to input information so that the received information is translated into a form which communicates a control signal to the one or more secondary vehicle components; and

a human machine interface adapted to communicate with the one or more vehicle components, the human machine interface is capable of communicating in combination with and separate from the speech recognition component.

The Examiner relies on the following prior art in rejecting the claims:

Everhart	US 6,240,347 B1	May 29, 2001
Stammler	US 6,839,670 B1	Jan. 4, 2005

Claims 36-70 stand rejected under 35 U.S.C. § 103(a) as obvious over Everhart in view of Stammler.

Rather than repeat the arguments here, we make reference to the Briefs (App. Br. filed Apr. 28, 2008; Reply Br. filed Sep. 4, 2008), and the Answer (mailed Aug. 5, 2008) for the respective positions of Appellants and the Examiner. Only those arguments actually made by Appellants have been considered in this decision. Arguments that Appellants did not make in the Briefs have not been considered and are deemed to be waived. *See* 37 C.F.R. § 41.37(c)(1)(vii).

ISSUE

Claims 36, 49, and 59 are independent claims. Appellants argue separately for the patentability of each independent claim; however, claims 49 and 59 have substantially the same limitations as claim 36, and the arguments presented for claims 49 and 59 do not differ in substance from the argument for claim 36. Furthermore, no arguments have been presented for the separate patentability of the dependent claims 37-48, 50-58, and 60-70. Therefore, we select claim 36 as the representative claim, pursuant to our authority under 37 C.F.R. § 41.37(c)(1)(vii).

The issue to be decided is: Would Appellants' invention, as exemplified by claim 36, have been obvious to a skilled person under 35 U.S.C. § 103(a), in light of the combined teachings of Everhart and Stammler?

FINDINGS OF FACT (FF)

Stammler

1. Stammler discloses control of one or several devices by speech dialog in real time operation (col. 2, ll. 26-30).
2. Stammler discloses speech dialog control of a telephone in a motor vehicle (Figs. 7-10; col. 13, l. 20 – col. 15, l. 15; col. 23, ll. 34-42).
3. Stammler discloses a user-specific list for storing telephone numbers under predetermined names or abbreviations (col. 20, ll. 1-4).
4. Stammler discloses speech dialog control of a navigation system in a motor vehicle (col. 19, ll. 62-67; col. 23, ll. 34-42; col. 23, l. 65 – col. 24, l. 3).
5. Stammler discloses a user-specific list for storing targets for the navigation system under predetermined names or abbreviations (col. 20, ll. 1-2, 5-6).
6. Stammler discloses entering a target location into the navigation system by entering a location name or street name in letter columns in a spelling mode (col. 19, ll. 62-64; col. 23, ll. 34-42; col. 23, l. 65 – col. 24, l. 3).
7. Stammler discloses that it is sufficient to use the beginning of the location name or street name of the location target and that the navigation system will, if necessary, offer several candidates for selection (col. 19, ll. 64-67; col. 23, ll. 34-42; col. 23, l. 65 – col. 24, l. 3).

PRINCIPLES OF LAW

Section 103 forbids issuance of a patent when “the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.”

KSR Int’l Co. v. Teleflex Inc., 550 U.S. 398, 406 (2007).

“[H]owever, the analysis need not seek out precise teachings directed to the specific subject matter of the challenged claim, for a court can take account of the inferences and creative steps that a person of ordinary skill in the art would employ.” *Id.* at 418.

“If a person of ordinary skill can implement a predictable variation, § 103 likely bars its patentability.” *Id.* at 417.

“A person of ordinary skill is also a person of ordinary creativity, not an automaton.” *Id.* at 421.

When there is a design need or market pressure to solve a problem and there are a finite number of identified, predictable solutions, a person of ordinary skill has good reason to pursue the known options within his or her technical grasp. If this leads to the anticipated success, it is likely the product not of innovation but of ordinary skill and common sense. In that instance the fact that a combination was obvious to try might show that it was obvious under § 103.

Id.

ANALYSIS

Claim 36

The Examiner asserts that, taking the combined teachings of Everhart and Stammler as a whole, a person having ordinary skill in the art at the time

the invention was made (“skilled person”) would have found it obvious to modify the voice activated vehicle accessory control system of Everhart in light of the teachings of Stammler regarding speech dialog control of devices in motor vehicles, to create the invention recited in claim 36 (Ans. 5-7).

Appellants do not challenge the teachings of Everhart, but contend that the disclosure of Stammler would not lead the skilled person to make the combination because the following limitation of claim 36 is not taught by Stammler:

a prompting component adapted to prompt the vehicle occupant in audio to input information for entering into the communications mode if additional information is needed than the information contained in the voice command, to input information for specifying a particular vehicle parameter for the communications mode if additional information is needed than the information contained in the voice command and to input information to disambiguate between a plurality of matching data by prompting the vehicle occupant to select a particular set of data from the matching data while in the communications mode

(App. Br. 7-8.). This limitation will be referred to herein as “the prompting component.” Appellants have not presented any substantive arguments regarding the other limitations of claim 36, and are, therefore, deemed to have waived any such arguments. 37 C.F.R. § 41.37(c)(1)(vii).

In rejecting claim 36, the Examiner finds, *inter alia*, that Stammler’s claims 1, 2, 8, and 11 (col. 21, l. 49 – col. 22, l. 57; col. 23, ll. 36-50; col. 23, l. 65 – col. 24, l. 3) disclose a dialog based control system

with a prompting component adapted to prompt the vehicle occupant in audio to input information for entering into the communications mode if additional information is needed than the information contained in the voice command, to input information for specifying a particular vehicle parameter for the

communications mode if additional information is needed than the information contained in the voice command (Stammler et al, figs. 9 & 10; col. 19, lines 62-67) and to input information to disambiguate between a plurality of matching data by prompting the vehicle occupant to select a particular set of data from the matching data while in the communications mode (Stammler et al, claims 1, 8 & 11: Claim 11 of Stammler discloses using the beginning of a street name for input where, the system in turns provides the user with a selection which matches the beginning of the street name in which the user could select from

(Ans. 6 (emphases omitted).)

Appellants contend that:

Stammler et al. fails to disclose that the SDS [(speech dialog system)] is capable of having logic (e.g., hardware and/or software) stored therein that is capable of prompting a user to select from a particular set of data to disambiguate between matching data as presently claimed. For example, Stammler et al. fails to address the situation in which matching data (e.g., a plurality of phone numbers associated with a particular contact) may be stored in a directory of the SDS or the manner in which the SDS facilitates the process of allowing the vehicle occupant to further make a selection from a list of matching data (e.g., a particular phone number from a listing of phone numbers associated with the contact name) once such data is determined to exist.

(App. Br. 8 (emphases omitted).)

Appellants further argue that Stammler is concerned with correctly recognizing audible commands and does not contemplate taking into account matching data that is found to exist in response to receiving voice commands from an occupant (Reply Br. 2). Appellants additionally point out that the navigation system described by Stammler “has nothing to do with the communication mode, let alone parameters related to a telephone located in

a vehicle passenger compartment as presently claimed [in claim 36]” (Reply Br. 2).

We find that the Examiner’s rejection of claim 36 as obvious and the rationale supporting it are reasonable. The obviousness inquiry under 35 U.S.C. § 103(a) is not whether the precise teachings of the claim can be found in the prior art. *KSR*, 550 U.S. at 418. Rather, the inquiry is whether the subject matter of the claim as a whole would be obvious to the skilled person in light of the prior art. *Id.* at 406.

We agree with Appellants that the prompting component of claim 36 is directed to dialog based control of a communication mode (i.e., telephone) in a vehicle (Reply Br. 2) rather than a navigation system, but that does not end the inquiry. Rather, Stammeler discloses speech dialog control of both a telephone (FF 1, 2) and a navigation system (FF 1, 4). Stammeler discloses that to select a target location for the navigation system, the street name or location name of the target are entered (FF 6) and that it is not necessary to enter the entire name (FF 7). Stammeler also discloses that after entry of the first few letters of the name, the system will offer several candidates for selection (FF 7). The navigation system further has a stored list of candidates (FF 5), and, as the Examiner at least implicitly found, a skilled person reading Stammeler’s disclosure would understand that the candidates it is offering for selection are candidates from that list that match the entered first few letters. The skilled person would also understand that the user of the dialog based control system (the occupant of the vehicle) may select a desired target from among the several candidates offered. That is, but for its application to Stammeler’s navigation system rather than the telephone (i.e., communication mode as claimed in claim 36), Stammeler discloses

disambiguation of matching data that is for the same purpose as the claimed prompting component. Accordingly, we find Appellants' arguments that Stammler "fails to disclose that the SDS is capable of having logic (e.g., hardware and/or software) stored therein that is capable of prompting a user to select from a particular set of data to disambiguate between matching data as presently claimed" (App. Br. 8), and that Stammler discloses a system which is only concerned with correctly recognizing audible commands (Reply Br. 2), to be unpersuasive.

Stammler's telephone and Stammler's navigation system have similar characteristics in that both are controlled by the dialog speech control system (FF 2, 4), and both have stored lists from which selections may be made for system utilization (FF 3, 5). Therefore, a skilled person would have recognized the design benefits of utilizing the same disambiguation technique for both the telephone and the navigation system. *See KSR*, 550 U.S. at 421. We find that in combining Everhart with Stammler, the application of Stammler's navigation system target disambiguation technique to Stammler's telephone would have been a predictable variation that could be implemented by the skilled person, *see id.* at 417, using his or her ordinary skill and creativity, *see id.* at 421.

Accordingly, we find that independent claim 36 and dependent claims 37-48, which depend from claim 36, are properly rejected by the Examiner under 35 U.S.C. § 103(a).

Claim 49

Because the relevant limitations of, and arguments presented for the patentability of, claim 49 are substantially the same as those for claim 36 (App. Br. 11-16), we find, for the reasons stated *supra* regarding claim 36,

that independent claim 49, and dependent claims 50-58, which depend from claim 49, are properly rejected by the Examiner under 35 U.S.C. § 103(a).

Claim 59

Similarly, because the relevant limitations of, and arguments presented for the patentability of, claim 59 are substantially the same as those for claim 36 (App. Br. 16-21), we find, for the reasons stated *supra* regarding claim 36, that independent claim 59, and dependent claims 60-70, which depend from claim 59, are properly rejected by the Examiner under 35 U.S.C. § 103(a).

CONCLUSION

On the record before us, we find that claims 36-70 are properly rejected as obvious under 35 U.S.C. § 103(a) over Everhart in view of Stammler.

ORDER

The decision of the Examiner to reject claims 36-70 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a).

AFFIRMED

babc

BROOKS KUSHMAN P.C./FGTL
1000 TOWN CENTER
22ND FLOOR
SOUTHFIELD, MI 48075-1238